REMARKS

Reconsideration of this application, as amended, is respectfully requested.

I.   Status of the Claims

Claims 29-34 have been added and do not add new matter.

Claims 1-34 are pending in the application.

Claim 7 has been amended and the amendments do not add new matter.

II.   Rejections Under 35 U.S.C. § 103

Claims 1-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable for obviousness over U.S. Patent No. 6,134,536 to Shepherd in view of U.S. Patent No. 6,408,282 to Buist. The Examiner states, that for claims 1 and 17, that Shepherd teaches the claimed invention except for each trader performing the entry and transmission of commands in real time to the market server and the display of substantially real time updates from the server. The Examiner goes on to state that Buist teaches a market server distributing the trade orders and executions of same to the trader clients in real time and that it would be obvious to combine the teachings of Shepherd and Buist to teach the above claims. The Applicants respectfully traverse the above rejection by stating that Shepherd and Buist, alone or in combination, do not teach or suggest all of the features of the claimed invention in claims 1 and 17.

Shepherd does not teach the "computer network" of the claimed invention, but only a multi-user computer. Shepherd discloses a system wherein the stakeholder communication devices 70 just "communicate data or instructions to or from the processing units [50]." Shepherd, column 7, lines 24-25. Shepherd's individual user devices do not process information locally, as in a network. Information is only entered and transmitted to the processing unit and then other information is transmitted back to the devices. Essentially, the user devices are dumb terminals to a central computer. *See*, Shepherd, Figure 2a and column 6, line 61 to column 8, line 4. This is in contrast to the claimed invention wherein "said trader clients [are] facilitating entry and transmission of commands... to the market server." The trader clients of the present invention parse "information into multiple windows depending on the status of the order" as part of facilitating the entry and transmission of commands. Specification, page 5, lines 16-19. Thus, the trader clients of the present invention must locally process the information communicated to and from the server. This information is parsed to, at least, determine the windows opened by the user and display the correct information therein.

Shepherd also discloses a second configuration, illustrated in Figure 2b, "that does not rely upon a centralised [*sic*] (hub) data processing unit, rather the necessary processing is performed locally at each stakeholder site 200$_n$ by means of distributed software." Shepherd, column 8, lines 5-8. Shepherd's second configuration also does not teach or suggest all of the claimed features. Both claims 1 and 17 require a "server" to receive

and process some information for the "clients". Shepherd's "hub" system does not include a server and does not disclose the claimed feature.

Thus, Shepherd does not teach or suggest the claimed "computer network" of the present invention.

Regarding claims 2-16 and 18-28, the Applicants respectfully traverse the above rejection by stating that these claims define over the prior art in view of their own further recitations and based on their dependency from independent claims 1 and 17.

Additionally, Applicants respectfully state that the Examiner has not set out a *prima facie* case of obviousness because Shepherd is nonanalogous art to the claimed invention. The courts have defined the analogous art requirement as follows:

> [i]n order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.

In re Oetiker, 977 F.2d 1443 (Fed. Cir. 1992). Applicants respectfully submit that Shepherd's invention is not the Applicants' field of endeavor and does not address the same problem as the claimed invention. Shepherd is directed to "risk management" or "futures" contracts. Shepard's risk management contracts are, in essence, insurance contracts. The parties are contracting to mitigate risks like breakdowns, failures of systems, acts of God (e.g., floods, earthquakes and lightening strikes); and even the presence of pollution. *See*, Shepherd, column 1, line 31 to column 2, line 53. The presently claimed invention is related to trading options. The options are specifically traded items on national and international exchanges.

The specification of the present application defines the scope of options trading. *See e.g.*, Specification, page 2, lines 16-23. Options trading presents certain specific difficulties which the presently claimed invention overcomes. The dynamics of options trading are different than brokering in insurance contracts, as defined in Shepherd. Thus, Shepherd is not analogous to Applicants' field of endeavor or reasonably pertinent to the particular problems of the options trading industry.

Regarding Buist, the reference does not cure the deficiencies present in Shepherd. Buist discloses many networks, none of which teach or suggest the network of the claimed invention. Buist's networks require data be first transmitted to a replica server before the data is transmitted to the root server. In contrast, the present invention claims that the "trader clients can be placed into operable communications with said market server." Thus, Buist discloses an additional step not present in the claims and one of skill in the art would not be motivated to modify Buist to achieve the claimed invention. Buist teaches toward the use of many redundant servers. Buist's replica servers communicate with the users, not the root server. Thus, Buist does not disclose users in operable communication with the root server.

In view of the above arguments, the Applicants respectfully request that the rejections to the claims be withdrawn.

Applicants additionally submit that new claims 29-34 are patentable on their own merits. Claims 29 and 32 recite that the commands "include at least one predefined multi-leg contract". Every options contract is based on calls and puts, and each call or put is known as a "leg". *See*, Specification, pages 1 and 2. Both Shepherd and Buist define transaction

systems based on a single leg contract. A trader using the inventions defined in either Shepherd or Buist can only transmit a single leg contract (i.e. one call or one put) to the market server. Thus, if a trader wishes to perform a multi-leg contract the trader must transmit one contract for each leg. In contrast, the presently claimed invention allows the traders to perform predefined multi-leg contracts in one transmission. For example, a trader using Shepherd's or Buist's system performs a 50-60-70 call butterfly trade, the trader must transmit three contracts (e.g., one for the 50 call option, one for the 60 call option and one for the 70 call option). In contrast, the trader using the presently claimed system only transmits one predefined multi-leg contract to perform the same butterfly trade.

Also, claims 31 and 34 recite that the commands further include at least one trader customized multi-leg contract. Shepherd and Buist do not teach or suggest allowing a user to define their own customized contract, but only contracts defined by predetermined parameters.

CONCLUSION

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved by either a Supplemental Response or a Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.
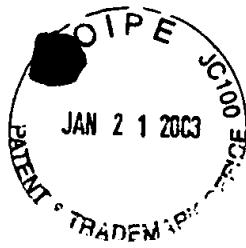
Favorable action is earnestly solicited.

Respectfully submitted,

Louis J. DelJudice
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PATENT TRADEMARK OFFICE

Docket No: 4117/0K528 US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mark A. NORDICHT et al.

Serial No.   09/653,102   Art Unit: 3624

Confirmation No.: 4063

Filed: August 31, 2000   Examiner: Geoffrey R. AKERS

For: **SYSTEM AND METHOD FOR REAL-TIME TRADING OVER A COMPUTER NETWORK**

- -

MARKED-UP VERSION FOR RESPONSE OF JANUARY 21, 2003

January 21, 2003

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

IN THE CLAIMS

Please amend claim 7 as follows:

7.   (Amended) The invention according to Claim 6, wherein each of said [trade]

trader clients displays said underlying commodities information in a working order and filled

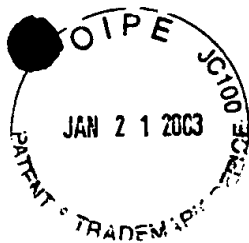order windows.

Respectfully submitted,

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GROUP 3600

In re Application of: Mark A. NORDICHT et al.

Serial No.   09/653,102   Art Unit: 3624

Confirmation No.: 4063

Filed: August 31, 2000   Examiner: Geoffrey R. AKERS

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- -

PENDING CLAIMS AS OF JANUARY 21, 2003

January 21, 2003

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

    1.   A system for real-time trading of options contracts between a plurality of human traders over a computer network, said system comprising:

        computer network;

a market server operably connected to said computer network; and

two or more trader clients operably connected to said computer network such that each of said trader clients can be placed into operable communications with said market server, each of said trader clients facilitating entry and transmission of commands in substantially real-time to said market server and display of substantially real-time updates from said market server,

said trader client commands including trade orders wherein said market server distributes said trade orders and any executions of same to each of said trader clients in substantially real-time.

2.   The invention according to Claim 1, wherein said market server additionally processes and executes matched trade orders in substantially real-time.

3.   The invention according to Claim 2, wherein said market server matches trade orders only where each party to said matched trade is identified by the other party as an accepted counterparty.

4.   The invention according to Claim 3, wherein said market server screens trades based on credit available to said human trader.

5.   The invention according to Claim 1, wherein said market server screens trades based on credit available to said human trader.

6.   The invention according to Claim 1, wherein each of said trader clients provides information to said human trader regarding a desired underlying commodities market as received from said market server.

7.   The invention according to Claim 6, wherein each of said trader clients displays said underlying commodities information in a working order and filled order windows.

8.   The invention according to Claim 7, wherein said underlying commodities information is alternatively available to said human trader in both summary and detailed form.

9.   The invention according to Claim 1, wherein each of said trader clients facilitates entry of said commands by providing a graphical user interface.

10. The invention according to Claim 9, wherein each of said trader clients facilitates entry of said commands by additionally providing a simplified order entry language.

11. The invention according to Claim 1, wherein each of said trader clients facilitates entry of said commands by providing a simplified order entry language.

12. The invention according to Claim 11, wherein the order entry language further contain symbols representing multiple trade orders.

13. The invention according to Claim 12, wherein each of the trader clients (is provided with optional feature) facilitates entering a supplementary trade command to diminish the risk of prior trade command.

14. The invention according to Claim 1, wherein displaying updated information which includes negative bid pricing values only if followed by opposite offers.

15.   The invention according to Claim 14, wherein the negative bid pricing values are displayed in terms of the lowest strike value.

16.   The invention according to Claim 1, wherein once an information of negative bid pricing is presented, the presented values are not updated automatically.

17.   A method for real-time trading of options contracts between a plurality of traders on an underlying commodity over a computer network using a client-server paradigm in a system having multiple clients, said method comprising:

-   submitting commands to the server entered by traders from multiple clients regarding the underlying commodity;

-   acting upon the commands submitted from multiple clients at the server; and

-   displaying in substantially real-time on all of the multiple clients all information from the server regarding submitted commands related to the underlying commodity and resulting server actions.

18.   The method according to Claim 17, wherein acting upon the commands submitted from multiple clients at the server includes matching trade order commands of at least two traders according to a rules set in substantially real-time.

19.   The method according to Claim 17, wherein acting upon the commands submitted from multiple clients at the server includes validating commands prior to acting further on the command.

20.   The method according to Claim 17, wherein submitting commands is facilitating by providing multiple command entry methods.

21.   The method according to Claim 20, wherein one such command entry method involves graphical user interface principles.

22.   The method according to Claim 21, wherein another such command entry method involves a quick entry language.

23.   The method according to Claim 17, wherein the display in substantially real-time of the information from the server further including parsing the information into multiple windows depending upon the status of the order.

24.   The method according to Claim 22, wherein the order entry language further contain symbols representing multiple trade orders.

25.   The method according to Claim 17, wherein each of the trade clients (is provided with optional feature) facilities entering a supplementary trade command to diminish the risk of prior trade command.

26.   The method according to Claim 17, wherein displaying updated information which includes negative bid pricing values only if followed by opposite offers.

27.   The invention according to Claim 26, wherein the negative bid pricing values are displayed in terms of the lowest strike value.

28.   The invention according to Claim 17, wherein once an information of negative bid pricing is presented, the presented values are not updated automatically.

29.   (New) The invention according to claim 1, wherein said trader client commands include at least one predefined multi-leg contract.

30.   (New) The invention according to claim 29, wherein said predefined multi-leg contract is selected from the group consisting of butterflies, strangles, calendar spreads, christmas trees, condors, iron butterflies, straddles, straddle spreads, 3ways and fences.

31.   (New) The invention according to claim 1, wherein said trader client command further includes at least one trader customized multi-leg contract.

32.   (New) The method according to claim 17, wherein the commands include at least one predefined multi-leg contract.

33. (New) The method according to claim 32, wherein the predefined multi-leg contract is selected from the group consisting of butterflies, strangles, calendar spreads, christmas trees, condors, iron butterflies, straddles, straddle spreads, 3ways and fences.

34. (New) The method according to claim 17, wherein said commands further include at least one trader customized multi-leg contract.

Respectfully submitted,

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